

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Bill & Monica Blum,**  
Petitioner-Appellants,

v.

**Davis County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 09-26-0016**  
**Parcel No. 171014109**

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On February 26, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellants, Bill and Monica Blum, requested a hearing, were represented by Attorney Keith Kreiman, and submitted evidence in support of their petition. The Respondent-Appellee, Davis County Board of Review designated County Attorney Rick L. Lynch as its legal representative. It did not attend the hearing but did submit evidence in support of its decision. A digital record of the proceeding was made. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Bill and Monica Blum, owners of property located at 29088 195th Street, Bloomfield, Iowa, appeal from the Davis County Board of Review decision reassessing their property. The property consists of approximately 12.47 acres of land, a dwelling, and outbuildings. The dwelling was destroyed by fire in February 2009; however, it remains part of this appeal because it existed on the property on the assessment date.

The Blums petitioned the Board of Review protesting the property was misclassified under Iowa Code section 441.37(1)(c). Blums claimed the property should be classified agricultural. The property was changed from an agricultural classification in 2008 to a rural residential classification for

2009. The Blums also claimed there was a downward change in value under sections 441.37(1) and 441.35. They stated a house fire destroyed the home on the property in late February 2009 and no home would be rebuilt. The January 1, 2009, assessed value for the total property was \$74,810. The Board of Review denied the protest stating the evidence was insufficient to prove the property was misclassified.

The Blums then appealed to this Board. They reassert the claim the property is misclassified.

The subject property has been continuously classified as agricultural property from the time the Blums acquired it until the January 1, 2007, assessment when it was changed to rural residential realty. This is the third appeal to this Board regarding the classification of Blums' property. In 2007, Blum first appealed challenging a change in classification from agricultural to residential. This Board ordered the property's correct classification was agricultural. The Blums again appealed in 2008 after the assessment was changed back to rural residential realty by the assessor and affirmed by the Board of Review. In 2008, this Board again changed the property back to agricultural realty. Finally, in 2009, the property's classification was changed for a third time from agricultural realty to residential realty by the assessor and affirmed by the Board of Review.

Monica Blum testified the property now consists of 12.47 acres because a portion of land was sold after the 2008 assessment date but prior to the 2009 assessment date. Ms. Blum testified nothing much has changed regarding her use of the property since the last two appeals to this Board. Blum testified they are still making a good faith effort to farm the land for intended profit.

Blum stated that not only does the farm include row crops, but it also has livestock, much as it has had in previous years. Since the last appeal in 2008, she stated they now produce their own hay on land that had previously been rented out. Additionally, on an aerial photograph of the property, Blum testified that all of the area that appears to be plowed was in hay. Blum estimated this to be nine or ten acres. It appears to this Board the area consists of at least two-thirds of the property.

Blum also produced a 2008 Schedule F income tax form to support her claim of farming. She sold wool in 2008 along with the market garden produce, berries, and honey. Blums received “LDP” payments from the Farm Services Agency for shearing their sheep, although it was an insignificant amount.

No one from the Davis County Board of Review participated in the hearing. This Board received the certified record as well as an additional packet of information prior to the hearing. The packet included a cover letter indicating it was intended to be used as evidence for the hearing. The packet included photographs, many of which were not of the subject property, tax forms, some additional unorganized data, and information from Blums’ previous appeals.

It is apparent to this Board the assessor and Board of Review’s good faith is questionable in repeatedly changing the classification of the Blums’ property and engaging in proceedings that are of such dubious merit. Nothing about the *use* of this property has changed since its classification was first appealed to this Board in 2007. The only change has been selling off a portion of the land. In this case, the remaining land is still *used for the same agricultural purposes*. The Appeal Board finds the Blums have met their burden of proof that the classification of this property as rural residential realty was in error.

### ***Conclusions of Law***

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or



additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. Iowa Code § 441.37A(3)(a).

The Blums assert the property is misclassified (error) and that its actual classification should be agricultural. The Iowa Department of Revenue has promulgated rules for the classification and valuation of real estate. *See* Iowa Admin. Code Ch. 701-71.1. Classifications are based on the best judgment the assessor exercised following the guidelines set out in the rule. *Id.* Boards of Review, as well as assessors, are required to adhere to the rules when they classify property and exercise assessment functions. *Id.* r. 701-71.1(2). Property is to be classified “according to its present use and not according to any highest and best use.” *Id.* r. 701-71.1(1). “Under administrative regulations adopted by the...Department...the determination of whether a particular property is ‘agricultural’ or [residential] is to be decided on the basis of its primary use.” *Sevde v. Bd. of Review of City of Ames*, 434 N.W.2d 878, 880 (Iowa 1989). There can be only one classification per property. Iowa Admin. r. 701-71.1(1).

“Agricultural real estate shall include all tracts of land and the improvements and structures located on them which are in good faith used primarily for agricultural purposes” except buildings which are primarily used or intended for human habitation. *Id.* r. 701-71.1(3).

Land and the nonresidential improvements and structures located on it shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest or fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit.

*Id.*

If Blum’s property is not classified agricultural, it must be classified residential. Residential realty is defined as the following:

Residential real estate shall include all lands and buildings which are primarily used or intended for human habitation, including those buildings located on agricultural land. Buildings are used primarily or intended for human habitation shall include the dwelling as well as the structures and improvements used primarily as part of, or in conjunction with, the dwelling. This includes but is not limited to garages, whether attached or detached, tennis courts, swimming pools, guest cottages, and storage sheds for household goods. Residential real estate on agricultural land shall include only buildings as defined by this subrule.

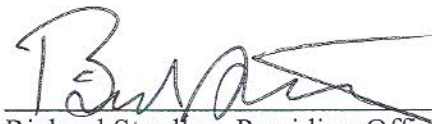
*Id.* r. 701-71.1(4).

Agricultural realty classification is determined based on its primary use and good faith effort for intended profits. In this factual situation, the Blums have not shown a profit yet, although in Ms. Blum's opinion they made a profit with the sale of the land and sale of their produce. Despite the fact that they have not *yet realized* a profit, the Blums have shown they are using the land primarily for agricultural purposes with an intent to profit.

In the opinion of the Appeal Board, the evidence supports the claims that the property is misclassified as authorized by Iowa Code section 441.21. We, therefore, modify the assessment of the Bill and Monica Blum property as determined by this Board for January 1, 2009, to be classified as agricultural realty.

THE APPEAL BOARD ORDERS that the classification of the property is agricultural. The January 1, 2009, assessment of the property is \$58,690 and is allocated \$4300 for land, and \$54,390 for improvements.

Dated this 26<sup>th</sup> day of April, 2010.

  
Richard Stradley, Presiding Officer

  
Karen Oberman, Board Chair

  
Jacqueline Rypma, Board Member

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on 4/26, 2010

By: ☒ U.S. Mail ☐ FAX  
☐ Hand Delivered ☐ Overnight Courier

☐ Certified Mail ☐ Other

Signature 